

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

STANLEY LEMECH PETTY, JR.,

Petitioner,

v.

**Civil Action No. 1:07cv140
(Judge Keeley)**

JOE D. DRIVER, Warden,

Respondent.

**ORDER DENYING PETITIONER'S SECOND MOTION TO PROCEED IFP
AND DIRECTING PETITIONER TO FILE UPDATED LEDGER SHEETS**

On October 24, 2007, the undersigned entered an Order granting the petitioner's Motion to Proceed In Forma Pauperis ("IFP"), but requiring the him to pay the \$5.00 filing fee because he receives more than \$50 a month in monetary gifts from family and friends. This case is before the Court on the petitioner's second motion to proceed IFP, filed on December 4, 2007.

In the motion, the petitioner asserts that he is not employed, that he has no assets, and that he no longer receives monetary gifts from outside sources. Thus, the petitioner asserts that he no longer has the means to pay the \$5.00 filing fee and requests the Court rescind it's previous Order to the extent that the Order requires him to pay the fee. As proof thereof, the petitioner provides a copy of the ledger sheets to his inmate account up to and including September 19, 2007.

Upon a review of the ledger sheets, it appears as though the petitioner has not received any outside funds since August 19, 2007. However, the ledger sheets provided by the petitioner in support of his motion for reconsideration are the same ledger sheets the Court utilized to determine the petitioner had the means to pay the \$5.00 filing fee. In order for the Court to reconsider its

previous decision, updated ledger sheets are required. Otherwise, the Court is not able to accurately access the petitioner's current ability to pay the \$5.00 filing fee.

Accordingly, because the petitioner has already been granted permission to proceed as a pauper, his second motion to proceed IFP (dckt. 9) is **DENIED as moot**. However, to the extent that the petitioner seeks reconsideration of the Court's Order directing him to pay the \$5.00 filing fee, the Court will reconsider its prior order only upon receipt of updated and current copies of the petitioner's ledger sheets. Those ledger sheets must reflect the activity in the petitioner's inmate account from August 1, 2007, to the present time. The petitioner has **twenty (20) days** from the date of this Order to file the updated docket sheets. The failure to do so will result in the petitioner's motion for reconsideration being denied.

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner.

DATED: December 5, 2007.

/s *John S. Kaull*

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE